

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6676 of 1998

to

FIRST APPEAL No 6678 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

Versus

PURSHOTTAM SOMABHAI PATEL

Appearance:

MR MB GANDHI for appellant

MR GM AMIN for Respondent No. 1

Mr.K.G. Sheth, AGP, for the respondent no.3

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 09/03/2000

COMMON ORAL JUDGMENT : (Per: Kadri, J.)

1. Appellant, Gujarat Industrial Development Corporation, by filing this group of first appeals, under Section 54 of the Land Acquisition Act, 1894 (to be referred to as 'Act' for short) read with Section 96 of the Code of Civil Procedure, 1908, has challenged common judgment and award dated May 6, 1998, passed by the learned Extra Assistant Judge, Nadiad, in Land Reference Cases Nos. 281 of 1987 to 283 of 1987. As common question of facts and law arise for our consideration, we propose to dispose of all these appeals by this common order.

2. On a proposal made by Gujarat Industrial Development Corporation for acquisition of agricultural lands of town Umreth, the State Government issued notification under Section 4(1) of the Act which came to be published in the Government Gazette on September 11, 1980. The land owners filed their objection under Section 5A of the Act against the proposed acquisition. After considering their objections, the Land Acquisition Officer had forwarded his report to the State Government as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the agricultural lands of town Umreth which were specified in the notification published under Section 4(1) of the Act were needed for the public purpose. Therefore, declaration under Section 6 of the Act was made which was published in the Government Gazette on June 2, 1981. Thereafter, notices under Section 9(3)(4) of the Act were issued to the land owners and, in response to the said notices, the land owners claimed compensation at the rate of Rs.30 per sq.mtr for their acquired lands of town Umreth. On the basis of materials placed before him, the Land Acquisition Officer made his award on April 16, 1986 and offered compensation to the claimants ranging from Rs.1.97 to 3.50 per sq.mtr. The land owners were also awarded compensation for well, etc. The land owners were of the opinion that the compensation offered by the Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the Court for determination of adequate compensation. Accordingly, references were made to the District Court, Nadiad, which were numbered as Land Reference Cases Nos. 281/87, 282/87 and 283/87. The claimants, in support of their claim, examined Mohamadbhai R. Vora, Exh.37, Bhailalbai at Exh.38, Mohanbhai Chottabhai at Exh.39,

and Rajnikant Chimanlal at Exh.40. The claimants also produced sale deeds at Exh.49, 51, 22/12 and 22/13. On overall appreciation of oral as well as documentary evidence, and the arguments advanced by the learned counsel for the parties, the Reference Court determined market price of acquired lands at the rate of Rs.20/- per sq.mtr. The Reference Court also awarded Rs.1000 as compensation for lemon trees, which were standing on the acquired lands. Over and above compensation for acquired lands and trees, the Reference Court also awarded compensation of Rs.15,000/- for pipeline, which was laid for irrigation purpose on acquired lands. The Reference Court also granted statutory benefits to the claimants under Sections 23(1-A), 23(2) and 28 of the Act. Hence, the Gujarat Industrial Development Corporation filed these appeals challenging the impugned judgment and award of the Reference Court.

3. Learned counsel, Mr. M.B. Gandhi, appearing for the appellant, has submitted that the Reference Court has erred in determining market value of acquired lands at Rs.20/- per sq.mtr. which is at higher side. Learned counsel for the appellant further submitted that the Reference Court had erred in awarding Rs.15,000/- as compensation for pipeline, particularly when the Reference Court had rejected claim of compensation of well situated on acquired lands. Learned counsel for the appellants further submitted that award of compensation of Rs.1000/- for standing lemon trees on the acquired lands is also unjustified and, hence, the appeals deserve to be allowed. Learned counsel for the respondents supported the impugned judgment and award and submitted that a just and adequate award has been awarded by the Reference Court and the appeals deserve to be dismissed with costs.

4. We have heard learned counsel for the parties at length. We have also taken into consideration relevant documents as well as oral evidence produced by learned counsel for the parties for our perusal before deciding this group of appeals.

5. The Reference Court, for determination of market value of the acquired lands, had relied upon sale deed of the Gujarat Industrial Development Corporation, which was proved by witness, Rajnikant Chimanlal, Exh.40. The said witness had purchased plot of the Gujarat Industrial Development Corporation at the rate of Rs.30/- per sq.mtr in the year 1981. It is true that the Gujarat Industrial Development Corporation, before allotting the plot, must have spent considerable amount for developing land and

providing drainage and other facilities. The Reference Court deducted Rs.9/- as development charges, which, in our opinion, is on the lesser side. Considering the fact that the plot was allotted in the year 1981, whereas the present lands came to be acquired in the year 1980, we deduct 40% of the amount, as developing charges, from the sale price of plot of GIDC in favour of the witness, for the purpose of determining the market value of the present acquired lands. If deduction of 40% is made from the amount of Rs.30/-, market price of acquired lands can be determined at Rs.18/- per sq.mtr. which, in our opinion, is quite just and adequate. The submission of learned counsel for the appellants that the Reference Court has erred in awarding Rs.15,000/- to the claimant of LAQ Case No.283/87 as compensation for pipeline, is devoid of any merit and deserves to be rejected. The lands were admittedly irrigated lands and, therefore, the Reference Court had rejected claim of well, but, it does not stand to reason that the same criteria should be applied for the claim of pipeline also. The claimants were irrigating their lands with the help of pipeline, and they had led sufficient evidence in support of their claim for compensation of the pipeline. Therefore, we do not find any reason to disturb the finding of the Reference Court in awarding compensation of Rs.15,000/to claimant of LAQ Case No.283 of 1987 for pipeline. Therefore, award of compensation for pipeline to claimant of LAQ Case No.283 of 1987 is confirmed. The award of Rs.1000/- as compensation for standing lemon trees on the acquired lands is eminently just and proper and does not require interference by this Court. The benefit extended under the statutory provisions of the Act is also quite just and proper and does not call for any interference.

6. As a result of foregoing reasons, all the appeals filed by the appellants are partly allowed. It is held that the market value of the acquired lands of town Umreth was Rs.18/- per sq.mtr. as on September 11, 1989. The common judgment and award dated May 6, 1998, passed by the learned Extra Assistant Judge, Nadiad, in Land Reference Cases Nos. 281 of 1987 to 283 of 1987 is modified to the aforesaid extent. The compensation with regard to pipeline and compensation for trees is confirmed. The respondents are also entitled to all the statutory benefits under Sections 23(2) and 23(1-A) and interest under Section 28 of the Act. The Office is directed to draw decree in terms of this judgment. There shall be no order as to costs.

(swamy)

